

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.1990 of 2012

M/s.Vivin Vaibava Trading P Ltd.,
Rep. by its Managing Director
Mr.Balamurugan,
2/187, Vaibava Complex,
Tirunelveli Road,
Ozhuginasery,
Nagercoil - 629001.

...Petitioner

Vs

1. The Commissioner of Customs,
Customs House,
Rajaji Salai,
Chennai - 600001.
2. The Asst. Commissioner of Customs,
Manifest Clearing Department,
Customs House,
Rajaji Salai,
Chennai - 600001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to refund of Rs.25,000/- been illegally collected from the petitioner with interest till the date of realization.

For Petitioner : Mr.A.Mohamed Ismail

For Respondents: Mr.A.P.Srinivas, SSC

O R D E R

It is the submission of the learned counsel for the petitioner that the penalty of Rs.25,000/- imposed is illegal, since the High Sea Sales was permissible in law and there was no impediment and further that the petitioner had also sought for necessary amendment to the manifest through their shipping agent.

2. In this regard, the petitioner claims to have also sent a legal notice dated 01.11.2011, calling upon the respondents to refund the amount of Rs.25,000/- The decision as to whether the penalty can be refunded or not is within the domain of the respondents herein and if at all the petitioner is aggrieved, it was incumbent on his part to make a proper representation to the respondents seeking for refund of the amount, before approaching this Court.

3. In the present case, the petitioner had issued a legal notice, which is received by the respondents on 28.11.2011 and the petitioner had filed the present writ petition in the 1st week of January 2012 itself, without giving them sufficient time to consider their representation. In my view, if the petitioner is granted liberty to make a fresh representation and the respondents are directed to consider the same within stipulated time, the ends of justice would be secured.

4. In the light of the above observations, the petitioner is granted liberty to make a fresh representation to the respondents herein ventilating his grievances and on receipt of the same, the respondents shall consider the same and pass appropriate orders within a period of 12 weeks from the date of receipt of copy of this order.

5. Accordingly, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Commissioner of Customs,
Customs House,
Rajaji Salai,
Chennai - 600001.

2. The Asst. Commissioner of Customs,
Manifest Clearing Department,
Customs House,
Rajaji Salai,
Chennai - 600001.

+1cc to Mr.A.Mohamed Ismail, Advocate sr.45995

W.P.No.1990 of 2012

br(co)
nr 15/07/2019



WEB COPY